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1 UNITED STATES DISTRICT COURT  
2 SOUTHERN DISTRICT OF NEW YORK

-----x

3 UNITED STATES OF AMERICA,

4 v.

18 CR 693 (RMB)

5 HARALD JOACHIM VON DER GOLTZ,

6 Defendant.

7 -----x

8 New York, N.Y.  
9 February 18, 2020  
11:25 a.m.

10 Before:

11 HON. BARBARA C. MOSES

12 Magistrate Judge

13  
14 APPEARANCES

15 GEOFFREY S. BERMAN

16 United States Attorney for the  
Southern District of New York

17 EUN YOUNG CHOI

NATHAN M. REHN II

Assistant United States Attorneys

18 U.S. DEPARTMENT OF JUSTICE CRIMINAL DIVISION

19 MICHAEL PARKER

20 PARKER REID TOBIN, I

21 QUINN EMMANUEL URQUHART & SULLIVAN

Attorney for Defendant

22 DANIEL R. KOFFMANN

23 ALSO PRESENT: QUOC TUAN NGUYEN, Special Agent IRS - CI

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(Case called)

MS. CHOI: Good morning, your Honor.

Eun Choi and Thane Rehn on behalf of the government.

With us at counsel table are Michael Parker and Parker Tobin of the Department of Justice Money Laundering and Asset Recovery Section, as well as Special Agent Quoc Tuan Nguyen of the IRS CI.

THE COURT: Ms. Choi, gentlemen, welcome.

MR. KOFFMANN: Good morning, your Honor. Daniel Koffmann from Quinn Emanuel on behalf of Mr. von der Goltz, who is with me at counsel table.

THE COURT: Counsel, Mr. von der Goltz, you don't need to rise. I am Magistrate Judge Moses. For the record, are you able to speak and understand English?

MR. KOFFMANN: I'm sorry, your Honor, if you could just say that again a little bit louder.

THE COURT: There is no need to stand up.  
Can you speak and understand English?

THE DEFENDANT: Yes, your Honor.

THE COURT: Thank you, sir.

Counsel, I understand we are here for a change of plea. I am told that your client, having previously pleaded not guilty, now wishes to plead guilty to several counts, all of the counts against him in the indictment; is that correct?

MR. KOFFMANN: That's correct, your Honor.

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1 THE COURT: Let us begin with this form.

2 Mr. von der Goltz, this is a form entitled consent to  
3 proceed before a United States magistrate judge on a felony  
4 plea allocution. It looks like your signature. Did you sign  
5 this paper?

6 THE DEFENDANT: Yes, your Honor.

7 THE COURT: What this form says is that you know you  
8 have the right to have your plea taken by a United States  
9 district judge but you are agreeing to have your plea taken by  
10 a United States magistrate judge which is what I am.

11 As a magistrate judge, I have the authority to take  
12 your plea with your consent and you are entitled to all of the  
13 same rights and protections as if you were before a district  
14 judge. If you are found guilty, you will be sentenced by the  
15 district judge assigned to your case.

16 Did you sign the consent form voluntarily?

17 THE DEFENDANT: Yes, your Honor.

18 THE COURT: Before you signed it, did your lawyer  
19 explain it to you?

20 THE DEFENDANT: Yes, your Honor.

21 THE COURT: Do you wish to proceed with your plea in  
22 my courtroom this morning?

23 MR. KOFFMANN: I'm sorry, your Honor, if you could  
24 just repeat that.

25 THE COURT: Do you wish to proceed with your plea

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1 before me in my courtroom this morning?

2 THE DEFENDANT: Yes, your Honor.

3 THE COURT: All right. Counsel could you just get the  
4 microphone a little closer to your client so that we can all  
5 hear.

6 Mr. von der Goltz, I have been informed that you wish  
7 to change your plea and to enter a plea of guilty to Counts One  
8 through Nine of your indictment; is that correct?

9 THE DEFENDANT: Yes, your Honor.

10 THE COURT: Before deciding whether to accept a guilty  
11 plea from you, I need to ask you a series of questions. It's  
12 important that you answer the questions honestly and  
13 completely. The purpose of the questions is to make sure that  
14 you understand your rights, to make sure that you are pleading  
15 guilty of your own free will, and to make sure that you are  
16 pleading guilty because you are guilty and not for some other  
17 reason.

18 Do you understand what I am saying?

19 THE DEFENDANT: Yes, your Honor.

20 THE COURT: Can you hear me well enough?

21 THE DEFENDANT: Not very well but I'm trying because  
22 my hearing aid is not perfect but I can hear most of what  
23 you're saying.

24 THE COURT: If you don't understand or can't hear any  
25 of my questions, please speak up. It is important that you

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1 understand each question before you answer it. Will you do  
2 that?

3 THE DEFENDANT: Yes, your Honor, I will do that.

4 THE COURT: And if you need to consult with your  
5 lawyer, please speak up as well and I will give you the time  
6 you need to talk with your lawyer.

7 Will you do that?

8 THE DEFENDANT: Yes, your Honor, I will do that.

9 THE COURT: I will ask the courtroom deputy to swear  
10 the defendant. Raise your right hand, please.

11 (Defendant sworn)

12 THE COURT: Mr. von der Goltz, you are now under oath.  
13 Do you understand that?

14 THE DEFENDANT: Yes, your Honor.

15 THE COURT: If you answer any of my questions  
16 intentionally falsely, you may be prosecuted for perjury based  
17 on those false answers.

18 Do you understand that?

19 THE DEFENDANT: Yes, your Honor.

20 THE COURT: I am now signing and accepting your  
21 consent to proceed before me.

22 And your first question, sir, is what is your full  
23 name?

24 BOTTOM2: Harald Joachim von der Goltz.

25 THE COURT: Thank you.

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1 How old are you?

2 THE DEFENDANT: Excuse me?

3 THE COURT: How old are you?

4 THE DEFENDANT: I'm 82 years old.

5 THE COURT: Are you a citizen of the United States?

6 THE DEFENDANT: No, I'm not.

7 THE COURT: What country are you a citizen of?

8 THE DEFENDANT: I'm a citizen of Guatemala and

9 Germany.

10 THE COURT: Guatemala and Germany?

11 THE DEFENDANT: Yes, your Honor.

12 THE COURT: What is the highest educational degree  
13 that you received?

14 THE DEFENDANT: Excuse me. The degree that I got in  
15 college?

16 THE COURT: How far did you go in school?

17 (Counsel and defendant confer)

18 THE DEFENDANT: I got -- I got a Master of Science at  
19 Massachusetts Institute of Technology. Sorry. A Bachelor of  
20 Science, Bachelor of Science at Massachusetts Institute of  
21 Technology.

22 THE COURT: Thank you, sir.

23 English is not your first language, correct?

24 THE DEFENDANT: No, it's not.

25 THE COURT: But I take it that since you graduated

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1 college at MIT you can read and write in English.

2 THE DEFENDANT: Yes, your Honor. Of course.

3 THE COURT: Thank you, sir.

4 Are you currently or have you recently been under the  
5 care of a doctor, a psychiatrist, or a psychologist?

6 THE DEFENDANT: Under a doctor care, yes, your Honor.

7 THE COURT: I don't need to know detail about your  
8 medical condition but I do need to ask you this. Do you have  
9 any condition that affects your ability to see?

10 THE DEFENDANT: Do I have any conditions that?

11 THE COURT: That affects your ability to see, your  
12 vision.

13 THE DEFENDANT: No. No, your Honor.

14 THE COURT: Your vision is all right?

15 THE DEFENDANT: My eyes are good. Yes.

16 THE COURT: You have some difficulty with your  
17 hearing, correct?

18 THE DEFENDANT: Yes, your Honor, I do have.

19 THE COURT: And do you wear hearing aids for that?

20 THE DEFENDANT: Yes, your Honor, I do.

21 THE COURT: Do you have any condition that affects  
22 your ability to think or to understand or to make judgments or  
23 decisions on your own behalf?

24 THE DEFENDANT: No, your Honor.

25 THE COURT: Within the last 24 hours have you taken

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1 any drugs, medicine, or pills that affect your mental  
2 processes?

3 THE DEFENDANT: No, your Honor.

4 THE COURT: In the past 24 hours have you consumed any  
5 alcohol?

6 THE DEFENDANT: One glass of wine last night, your  
7 Honor.

8 THE COURT: That was yesterday evening?

9 THE DEFENDANT: Yes, your Honor.

10 THE COURT: All right. Is your mind clear now?

11 THE DEFENDANT: Yes, your Honor.

12 THE COURT: Do you understand what is happening in  
13 this proceeding?

14 THE DEFENDANT: Excuse me?

15 THE COURT: Do you understand what is happening in  
16 this proceeding?

17 THE DEFENDANT: Yes, your Honor.

18 THE COURT: Does either counsel have any objections to  
19 the defendant's competence to plead?

20 MS. CHOI: None from the government your Honor.

21 MR. KOFFMANN: No, your Honor.

22 THE COURT: Thank you.

23 Mr. von der Goltz, I have here a copy of the  
24 superseding indictment in your case, that is to say the  
25 document containing the legal charges against you. Have you



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1 read it?

2 THE DEFENDANT: Yes, your Honor.

3 THE COURT: Do you want me to read it to you?

4 THE DEFENDANT: No, your Honor.

5 THE COURT: Do you understand what it says you did?

6 (Counsel and defendant confer)

7 THE DEFENDANT: Yes, your Honor.

8 THE COURT: Have you had time to talk with your  
9 attorney about the charges and about how you wish to plead?

10 THE DEFENDANT: Yes, your Honor.

11 THE COURT: Has your attorney explained the  
12 consequences of pleading guilty?

13 THE DEFENDANT: Yes, your Honor.

14 THE COURT: Are you satisfied so far with your  
15 attorney's representation of you?

16 THE DEFENDANT: Yes, your Honor.

17 THE COURT: What I'm going to do next is explain  
18 certain constitutional rights that you have but that you will  
19 be giving up if you enter a guilty plea. So, again, please  
20 listen carefully to what I'm about to say and if you can't hear  
21 me or if you don't understand, stop me and either your attorney  
22 or I will try to make sure that you do understand.

23 Are you ready?

24 THE DEFENDANT: Yes, your Honor. I'm ready.

25 THE COURT: Under the Constitution and laws of the

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1 United States you have a right to plead not guilty to all of  
2 the charges against you in the indictment.

3 Do you understand that?

4 THE DEFENDANT: Yes, your Honor.

5 THE COURT: If you plead not guilty, you will be  
6 entitled, under the Constitution and laws of the United States,  
7 to a speedy and public trial by a jury of those charges.

8 At trial you would be presumed innocent. The  
9 government would be required to prove you guilty beyond a  
10 reasonable doubt before you could be found guilty. You could  
11 not be found guilty unless a jury of twelve people agreed  
12 unanimously that you are guilty beyond a reasonable doubt.

13 Do you understand that?

14 THE DEFENDANT: Yes, your Honor.

15 THE COURT: If you decided to go to trial, then at  
16 that trial and at every stage of the case you would have the  
17 right to be represented by an attorney. If you could not  
18 afford one, an attorney would be appointed to represent you at  
19 the government's expense. Even though you have retained  
20 private defense counsel, if you were to run out of money an  
21 attorney would be appointed for you at that time to continue to  
22 represent you. You are entitled to an attorney all the way  
23 through trial and not just for a guilty plea. So your decision  
24 to plead guilty should not depend on whether you can or cannot  
25 afford to hire or retain a private attorney.

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Do you understand that?

THE DEFENDANT: Yes, your Honor.

THE COURT: During trial the witnesses for the prosecution would have to come to court and testify in your presence where you could see them and hear them and your lawyer could cross-examine them. If you wanted, your lawyer could offer evidence on your behalf as well. Your lawyer would be able to use the court's power, known as subpoena power, to compel witnesses to come to court to testify even if they did not want to come.

Do you understand that?

THE DEFENDANT: Yes, your Honor.

THE COURT: At trial, you would have the right to testify in your own defense if you wished. You would also have the right not to testify. If you chose not to testify, that could not be used against you in any way. No inference or suggestion of guilt would be permitted from the fact that you chose not to testify.

Do you understand that?

THE DEFENDANT: Yes, your Honor.

THE COURT: If you are convicted at trial, you would have the right to appeal that verdict to a higher court.

Do you understand that?

THE DEFENDANT: Yes, your Honor.

THE COURT: As I said before, you have the right to

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1 plead not guilty.

2 Even today, although you came to court for the purpose  
3 of entering a guilty plea, you have the right to change your  
4 mind, to persist in your not guilty plea, and to go to trial.  
5 But if you do plead guilty and if the court accepts your plea,  
6 you will give up the right to a trial and the other rights that  
7 go with it that I just described.

8 If you plead guilty, there will be no trial. All that  
9 will remain to be done will be to impose a sentence. You and  
10 the government will have a chance to make arguments about what  
11 that sentence should be. But there will not be any trial to  
12 determine whether you are guilty or not guilty of the charges  
13 to which you have pled guilty.

14 Do you understand that?

15 THE DEFENDANT: Yes, your Honor.

16 THE COURT: Do you also understand that the decision  
17 as to the appropriate sentence in your case will be entirely up  
18 to the sentencing judge?

19 THE DEFENDANT: Yes, your Honor.

20 THE COURT: Not me, not the prosecutors, but the  
21 United States district judge who will sentence you. That judge  
22 will be limited only by what the law requires. This means that  
23 even if you are surprised or disappointed by your sentence you  
24 will still be bound by your guilty plea.

25 Do you understand that?

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1 THE DEFENDANT: Yes, your Honor.

2 THE COURT: Finally, if you do plead guilty you will  
3 be giving up the right not to incriminate yourself. I will ask  
4 you questions today about what you did in order to satisfy  
5 myself that you are actually guilty. So by pleading guilty you  
6 will be admitting your factual as well as your legal guilt.

7 Do you understand that?

8 THE DEFENDANT: Yes, your Honor.

9 THE COURT: Taking a look at the indictment in your  
10 case, I see that Count One charges you with conspiracy to  
11 commit tax evasion in violation of 18 U.S.C. Section 371.

12 Count Two charges you with wire fraud in violation of  
13 18 U.S.C. Sections 1343 and 2.

14 Count Three charges you with a money laundering  
15 conspiracy in violation of 18 U.S.C. Section 1956(h).

16 Counts Four, Five, Six and Seven all charge you with a  
17 willful failure to file FBARs; that is, to file reports of  
18 foreign bank and financial accounts, during different years, in  
19 violation of 31 U.S.C. Sections 5314 and 5322(a) and in  
20 violation of 31 C.F.R., Sections 1010.350, 1010.306(c) and (d),  
21 and 1010.840(b) as well as 18 U.S.C. Section 2.

22 Finally, Counts Eight and Nine charge you with making  
23 false statements in violation of 18 U.S.C. Sections 1001(a)(2)  
24 and 2.

25 I will now ask Ms. Choi, the Assistant United States

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1 Attorney, to state the elements of those charges.

2 The elements, sir, are the things that the government  
3 would have to prove beyond a reasonable doubt if the charges  
4 against you went to trial.

5 Ms. Choi.

6 MS. CHOI: Your Honor, Count One charges the defendant  
7 with participating in a conspiracy to attempt to evade and  
8 defeat a substantial part of the income taxes due and owing by  
9 von der Goltz during 2000 to 2016.

10 The elements are as follows: First, the existence of  
11 a conspiracy charged; that is, there was an agreement between  
12 two or more persons to violate a law of the United States, in  
13 this case attempt to commit tax evasion; second, that the  
14 defendant intentionally and knowingly became a member of the  
15 conspiracy; third, that any of the coconspirators knowingly  
16 committed or caused to be committed at least one overt act in  
17 furtherance of the conspiracy.

18 And with regard to the elements of the substantive  
19 crime, that is the object of that conspiracy, there are three  
20 elements. First, that the taxpayer at issue, the defendant,  
21 von der Goltz had substantial tax due and owing; second that  
22 the defendant committed an affirmative act constituting an  
23 evasion or attempted evasion of an assessment of a tax; third,  
24 that in evading or attempting to evade assessment of taxes due  
25 and owing for the years in question the defendant acted

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1 knowingly and willfully.

2 Count Two charges the defendant with wire fraud for  
3 which there are three elements. First, that there was a scheme  
4 or an artifice to defraud or to obtain money or property by  
5 materially false and fraudulent pretenses, representations or  
6 promises; second, that the defendant knowingly and willfully  
7 devised or participated in that scheme or artifice to defraud  
8 with knowledge of its fraudulent nature and with a specific  
9 intent to defraud; and third, that interstate or international  
10 wire communications were used in execution of the scheme.

11 Count Three is a money laundering conspiracy which  
12 has -- which has the same elements as is set forth in Count One  
13 except that there is no need for the government to prove an  
14 overt act in regard to this money laundering conspiracy.

15 The object of the conspiracy is money laundering which  
16 has two elements. First, that the defendant transported,  
17 transmitted or transferred or attempted to transport, transmit  
18 or transfer a monetary instrument or funds from a place in the  
19 United States to or through a place outside the United States  
20 or to a place in the United States from or through a place  
21 outside of the United States; and second, that the defendant  
22 did so with the intent to promote the carrying out of a  
23 specified unlawful activity, which in this case is the wire  
24 fraud set forth in Count Two.

25 Counts Four through Seven charge the defendant with

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1 failing to file a report of foreign bank and financial  
2 accounts, also known as an FBAR, with the Department of  
3 Treasury for certain years over which -- during which the  
4 defendant is alleged to have had signature or other authority  
5 with respect to foreign bank accounts. In particular, Counts  
6 Four and Five discuss calendar years 2012 and 2013 with regard  
7 to von der Goltz's authority over bank accounts held at a  
8 Panamanian bank and a Swiss bank. And Counts Six and Seven  
9 allege for the calendar years 2014 and 2015 that von der Goltz  
10 failed to report his authority over bank accounts held in a  
11 Panamanian bank.

12           There are four elements to that crime. First, that  
13 the defendant was a United States person during the years  
14 specified in the count, to wit, Mr. von der Goltz was a United  
15 States legal permanent resident from approximately 1984 through  
16 October of 2017; second, that von der Goltz had a financial  
17 interest in or signature or other authority over a bank,  
18 securities or other financial account in a foreign country  
19 during the pertinent time; third, the aggregate value of  
20 von der Goltz's foreign bank accounts exceeded \$10,000 during  
21 each of the respective calendar years; and fourth, the  
22 defendant von der Goltz willingly failed to file an FBAR on or  
23 before June 30 of the year following any of the calendar years  
24 identified in those particular counts.

25           Counts Eight and Nine charge von der Goltz with making



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1 materially false statements to the executive branch of the  
2 government of the United States, specifically department of  
3 justice, in violation of Title 18 United States Code Section  
4 1001.

5           There are four elements to this crime. First, that on  
6 or about the dates set forth in the indictment for Counts Eight  
7 and Nine von der Goltz made a statement or representation;  
8 second, that the statement or representation made by  
9 von der Goltz was false, fictitious or fraudulent; third, that  
10 the statement or representation was material; and fourth, that  
11 Mr. von der Goltz acted knowingly and willfully. Sorry. There  
12 is one more element. Fifth, that the falsification was with  
13 respect to a matter within the jurisdiction of the executive  
14 branch of the government of the United States. Specifically,  
15 there was an open investigation involving the department of  
16 justice and other branches of the executive branch of the  
17 government of the United States for which -- and with regard to  
18 which Mr. von der Goltz made false statements to the  
19 government.

20           And finally we would have to prove with a  
21 preponderance of the evidence venue as to each of those counts.

22           THE COURT: Thank you, Ms. Choi.

23           Mr. von der Goltz, next I'm going to tell you the  
24 maximum possible penalty for the crimes charged in the  
25 indictment. The maximum means the most that could possibly be

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1 imposed. This does not mean that it is necessarily what you  
2 will receive. However, by pleading guilty you are exposing  
3 yourself to the possibility of receiving a punishment or  
4 combination of punishments up to the maximum that I am about to  
5 describe.

6 Do you understand that?

7 (Counsel and defendant confer)

8 THE DEFENDANT: Yes, your Honor.

9 THE COURT: The maximum term of imprisonment for the  
10 crime charged in Count One, that's conspiracy to commit tax  
11 evasion, the maximum term of imprisonment for that crime is  
12 five years, five years in prison, which could be followed by up  
13 to three years of supervised release.

14 If your sentence includes supervised release it means  
15 you will be subject to supervision by the probation department  
16 after your release from prison. If that happens and if you  
17 violate any condition of that supervised release the court  
18 could revoke the term of supervised release previously imposed  
19 and return you to prison without giving you credit for time  
20 served on postrelease supervision. In addition to these  
21 restrictions on your liberty, the maximum possible penalty for  
22 the crime charged in Count One includes a financial penalty; in  
23 this case, \$250,000 or twice the profits of the criminal  
24 activity or twice what someone other than yourself lost because  
25 of the criminal activity, whichever is greater.

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1 I am also required by law to tell you that there is an  
2 additional special assessment, an extra fine of one hundred  
3 dollars which is required to be imposed on each count of  
4 conviction.

5 Moving to Count Two, which charges you with wire  
6 fraud, I advise you that Count Two carries a maximum term of  
7 imprisonment of 20 years, which could be followed by a maximum  
8 term of three years on supervised release and a maximum fine,  
9 again, of \$250,000 or twice the profits of the criminal  
10 activity or twice what someone other than yourself lost because  
11 of the criminal activity, whichever is greater, and a one  
12 hundred dollar mandatory special assessment.

13 Count Three which charges you with a money laundering  
14 conspiracy, carries a maximum term of imprisonment of 20 years,  
15 a maximum term of postrelease supervision of three years, a  
16 maximum fine in this case of five hundred thousand dollars or  
17 twice the value of the property involved in the transaction and  
18 a one hundred dollar mandatory special assessment.

19 Counts Four, Five, Six and Seven which charge you with  
20 willful failure to file FBARS each carry a maximum term of five  
21 years in prison, which could be followed by supervised release  
22 of up to three years, a maximum fine of \$250,000 or twice the  
23 profits of the criminal activity or twice what someone other  
24 than yourself lost because of the criminal activity, whichever  
25 is greater.

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1 Counts Eight and Nine, which charge you with making  
2 false statements, each carry a maximum term of imprisonment of  
3 five years, a maximum term of supervised release of three  
4 years, and a maximum fine of \$250,000 or twice the profits of  
5 the criminal activity or twice what someone other than yourself  
6 lost because of the criminal activity, whichever is greater and  
7 a one hundred dollar mandatory special assessment.

8 In addition, by pleading guilty you will admit to the  
9 forfeiture allegations contained in the indictment and agree to  
10 forfeit any property within the scope of 18 U.S.C. Sections  
11 981(a)(1)(B) and 982(a)(1), as well as 28 U.S.C. Section 2461.

12 Mr. von der Goltz, if the prison terms on these  
13 charges were to run consecutively you would face a potential  
14 aggregate prison sentence of up to 75 years.

15 Do you understand that?

16 THE DEFENDANT: Yes, your Honor.

17 THE COURT: Because you are not a citizen of the  
18 United States I am required to advise you that your guilty plea  
19 will likely have adverse consequences for your ability to  
20 remain in or return to the United States including removal,  
21 deportation, denial of citizenship and denial of admission to  
22 the United States in the future.

23 Do you understand that your removal or deportation may  
24 be mandatory?

25 THE DEFENDANT: Yes, your Honor.

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1 THE COURT: And if that does happen you will still be  
2 bound by your guilty plea; that is, you will not be able to  
3 withdraw it regardless of any advice you have received from  
4 your counsel or from anyone else regarding the immigration  
5 consequences of your plea.

6 Do you understand that?

7 THE DEFENDANT: Yes, your Honor.

8 THE COURT: Mr. von der Goltz, has anyone threatened  
9 you or coerced you in any way to get you to plead guilty?

10 THE DEFENDANT: No, your Honor.

11 THE COURT: Has anyone promised you anything or  
12 offered you anything to get you to plead guilty?

13 THE DEFENDANT: No, your Honor.

14 THE COURT: Mr. Snell.

15 My deputy is handing to me a letter written to your  
16 lawyer from the government dated February 6, 2020 in which the  
17 prosecutors explain how they believe that a part of our law  
18 known as the sentencing guidelines will apply to your case.  
19 And I see on page 5 of the letter that the government believes  
20 that your guidelines range is between 151 and 181 months in  
21 prison; that is, the government believes that the guidelines  
22 would provide for a sentence in that range.

23 In addition, after determining your ability to pay,  
24 the government believes that the guidelines would call for a  
25 fine in the range of \$35,000 to \$350,000.

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1 Have you read the letter, Mr. von der Goltz?

2 THE DEFENDANT: Yes, your Honor, I have.

3 THE COURT: Do you understand what it says?

4 THE DEFENDANT: Yes, your Honor.

5 THE COURT: Do you understand that this letter is not  
6 a plea agreement?

7 THE DEFENDANT: Yes, your Honor.

8 THE COURT: It is simply a description of the  
9 government's current position as to how the sentencing  
10 guidelines should apply in your case.

11 Mr. von der Goltz, do you understand that under the  
12 terms of the government's letter, the February 6 letter, even  
13 if you later learn that the government withheld from your  
14 counsel certain information that would have been helpful to you  
15 in defending yourself at trial, you would not be able to  
16 complain about that or withdraw your guilty plea on that basis?

17 THE DEFENDANT: Yes, your Honor.

18 THE COURT: Do you understand that the terms of the  
19 February 6 letter including any calculations relating to  
20 sentencing are not binding on the sentencing judge?

21 THE DEFENDANT: Yes, your Honor.

22 THE COURT: The sentencing judge could reject those  
23 calculations and could impose a more severe sentence than you  
24 expect without permitting you to withdraw your plea of guilty.  
25 The sentencing judge is required to make his own independent

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1 calculation of the appropriate sentencing range under the  
2 guidelines. He will also have the discretion to give you a  
3 sentence below or above that range up to the maximum sentence  
4 that I told you about earlier.

5 In addition to the sentencing guidelines and possible  
6 departures from the guidelines, the sentencing judge will also  
7 consider the factors set forth at 18 U.S.C. Section 3553(a).  
8 In other words, the sentencing judge will pronounce whatever  
9 sentence he believes is the appropriate sentence for you even  
10 if that sentence is different from the one set forth in the  
11 February 6 letter from the government.

12 Do you understand that?

13 THE DEFENDANT: Yes, your Honor.

14 THE COURT: The court will also consider before  
15 sentencing you a presentence report that will be prepared by  
16 the probation department. Both you and the government will  
17 have an opportunity to challenge the facts set forth in that  
18 report.

19 Mr. von der Goltz, do you understand that there is no  
20 parole in the federal system?

21 THE DEFENDANT: Yes, your Honor.

22 THE COURT: If you are sentenced to prison, you will  
23 not be released early on parole.

24 Before I go on, let me ask both counsel if there are  
25 any additional provisions of the February 6 letter that you

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1 would like me to go over with Mr. von der Goltz?

2 MS. CHOI: Your Honor, I think we would just raise the  
3 issue of restitution that would be imposed by the court.

4 THE COURT: All right. I've been forgetting that this  
5 morning for some reason.

6 Mr. von der Goltz, we discussed the fines that could  
7 be part of your sentence. We also discussed forfeiture. In  
8 addition, the sentencing judge could impose a term of  
9 restitution on you; that is, could direct you to make payments  
10 to any victims of the crimes in an amount determined by the  
11 court.

12 Do you understand that?

13 THE DEFENDANT: Yes.

14 THE COURT: All right. Anything else, Ms. Choi?

15 MS. CHOI: Not from the government, your Honor.

16 THE COURT: All right. Anything from Mr. Koffmann?

17 MR. KOFFMANN: No, your Honor.

18 THE COURT: All right.

19 (Counsel and defendant confer)

20 THE COURT: Aside from what is in the -- sorry. Do  
21 you need a moment?

22 MR. KOFFMANN: No, your Honor.

23 THE COURT: OK.

24 Aside from what is in the February 6 letter from the  
25 government, have any promises or representations been made to



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1 you to influence you to plead guilty?

2 THE DEFENDANT: No, your Honor.

3 THE COURT: Have any promises been made to you  
4 concerning the actual sentence that you will receive?

5 THE DEFENDANT: Excuse me. I didn't hear.

6 THE COURT: Have any promises been made to you as to  
7 the actual sentence that you will receive?

8 THE DEFENDANT: No, your Honor.

9 THE COURT: You have been advised of the charges  
10 against you, the possible penalties you face, and the rights  
11 that you are giving up. Is it still your intention to plead  
12 guilty to Counts One through Nine of the indictment in your  
13 case?

14 THE DEFENDANT: Yes, your Honor.

15 THE COURT: Is your plea voluntary and made of your  
16 own free will?

17 THE DEFENDANT: Yes, your Honor.

18 THE COURT: Mr. von der Goltz, with respect to Count  
19 One, how do you plead?

20 THE DEFENDANT: Guilty.

21 THE COURT: With respect to Count Two, how do you  
22 plead?

23 THE DEFENDANT: Guilty.

24 THE COURT: With respect to Count Three, how do you  
25 plead?

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1 THE DEFENDANT: Guilty.

2 THE COURT: With respect to Count Four, how do you  
3 plead?

4 THE DEFENDANT: Guilty.

5 THE COURT: With respect to Count Five, how do you  
6 plead?

7 THE DEFENDANT: Guilty.

8 THE COURT: With respect to Count Six, how do you  
9 plead?

10 THE DEFENDANT: Guilty.

11 THE COURT: With respect to Count Seven, how do you  
12 plead?

13 THE DEFENDANT: Guilty.

14 THE COURT: With respect to Count Eight, how do you  
15 plead?

16 THE DEFENDANT: Guilty.

17 THE COURT: With respect to Count Nine, how do you  
18 plead?

19 THE DEFENDANT: Guilty.

20 THE COURT: Can you tell me in your own words what you  
21 did that makes you guilty of those crimes.

22 THE DEFENDANT: Yes, your Honor. I have asked my  
23 attorneys to help me prepare a statement.

24 THE COURT: That's fine.

25 THE DEFENDANT: And with your permission I would like

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1 to read it.

2 THE COURT: You may.

3 THE DEFENDANT: All right. Until 2017 I was a legal  
4 permanent resident of the United States and subject to taxation  
5 in this country. As I understood it, that meant that I was  
6 required to pay taxes both on income that I earned in my own  
7 name and also on the income earned by certain investment  
8 vehicles that I owned and were incorporated abroad.

9 In order to avoid paying the tax on the investment  
10 income that those foreign investment companies earned, I  
11 falsely claimed that those entities did not belong to me and  
12 instead belonged only to my mother who was not a U.S. person  
13 and, thus, did not pay taxes in the United States.

14 The goal was so that any income that those investment  
15 companies might earn would not be taxed in the United States.

16 In order to carry this out, I included on my personal  
17 tax returns only the income earned in my own name and not any  
18 income earned in the name of the investment -- foreign  
19 investment companies.

20 I chose not to report to the IRS the foreign bank  
21 accounts held by those investment companies.

22 I authorized wire transfers to and from bank accounts  
23 both in the United States and abroad.

24 And ultimately when the government began investigating  
25 the law firm that assisted me in these efforts, I repeated to

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1 the government officials the falsehood that the investment  
2 companies belonged solely to my mother.

3 I'm profoundly sorry for my actions and for the harm I  
4 have caused not only to the United States but to the people I  
5 deceived, to my friends and most of all to my wife, my  
6 children, and other family members.

7 THE COURT: Mr. von der Goltz, did you commit these  
8 acts by yourself or with others?

9 THE DEFENDANT: No. I -- this is by myself with the  
10 assistance of my attorneys.

11 THE COURT: Did you make any agreement with your  
12 attorneys or others to engage in acts that violated the laws of  
13 the United States?

14 THE DEFENDANT: No, I did not.

15 MR. KOFFMANN: Just a moment, your Honor.

16 (Counsel and defendant confer)

17 THE DEFENDANT: Yes, your Honor. Sorry. I didn't  
18 understand.

19 THE COURT: That's all right. I'll ask the question  
20 again. Did you make any agreements with your attorneys or  
21 others to engage in conduct that violated the laws of the  
22 United States?

23 THE DEFENDANT: I did not make any agreements, no.

24 THE COURT: Well it doesn't have to be formal,  
25 Mr. von der Goltz.

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1 MR. KOFFMANN: Your Honor, if I could just have a  
2 moment.

3 (Counsel and defendant confer)

4 THE DEFENDANT: Your Honor, I'm sorry. I didn't fully  
5 understand what, you know, the question or the statement was  
6 that you made so when my attorney explained it to me yes, I  
7 did. Yes, your Honor.

8 THE COURT: Yes, you did what, sir?

9 THE DEFENDANT: An agreement with these -- an  
10 agreement with these attorneys.

11 THE COURT: All right. Now, you told me that you were  
12 a lawful permanent resident of the United States required to  
13 pay taxes on income earned by you both in your own name and  
14 through your offshore investment vehicles and that you falsely  
15 claimed that those offshore investment vehicles or that the  
16 income of those vehicles belonged to your mother who was not a  
17 U.S. person rather than yourself. At the time you did that,  
18 was there substantial tax due and owing under U.S. law?

19 THE DEFENDANT: Yes, your Honor. Yes.

20 THE COURT: Ms. Choi, do you believe that there has  
21 been a sufficient factual predicate for a guilty plea?

22 MS. CHOI: Your Honor, I think there are just a few  
23 minor points.

24 First with regard to Count Three, the promotional  
25 money laundering element. Although the defendant allocuted

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1 that he helped -- he authorized wire transfers to and from the  
2 United States, we'd just like him to specify that those wire  
3 transfers were intended to help him conceal assets in  
4 furtherance of his tax evasion scheme.

5 And also with regard to Counts Four through Seven,  
6 simply that the foreign bank accounts at issue that he held  
7 money in exceeded ten thousand dollars during the years charged  
8 in the indictment.

9 THE COURT: That's not the tax. That's the principal?

10 MS. CHOI: No, your Honor. That's the balance of  
11 those particular bank accounts. The obligation to file is if  
12 the aggregate value across those foreign bank accounts exceeds  
13 ten thousand dollars in that particular year.

14 THE COURT: Anything else?

15 MS. CHOI: Sorry, your Honor.

16 Just with regard to the false statements charges.  
17 Although he stated that he made false statements, I just wanted  
18 to clarify that there are two specific false statements dates  
19 as alleged in the indictment. First, the false statements  
20 contained in a May 11, 2016 e-mail that his attorney sent on  
21 his request to the United States Attorney's Office as well as a  
22 false statement that he made in person to the Department of  
23 Justice and the IRS on May 19, 2016. Those are the bases for  
24 the two separate statements.

25 And I have a factual assertion with regard to venue

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1 but we can --

2 THE COURT: Let's hold off on that.

3 Mr. von der Goltz --

4 MR. KOFFMANN: Go ahead, please. I was just going to  
5 ask for a moment to discuss with Mr. von der Goltz.

6 THE COURT: I will give you a moment in a moment.

7 So, first, Mr. von der Goltz let me go back. You  
8 began by reading from a statement that your attorney helped you  
9 prepare, correct?

10 THE DEFENDANT: Excuse me. I didn't hear.

11 THE COURT: Right. You began by reading from a  
12 statement, correct?

13 THE DEFENDANT: Yes, your Honor.

14 THE COURT: And your attorney helped you prepare that?

15 THE DEFENDANT: I'm what?

16 THE COURT: Did your lawyer help you with that  
17 statement?

18 THE DEFENDANT: They helped me prepare it, yes, your  
19 Honor.

20 THE COURT: Do you adopt those words as your own?

21 THE DEFENDANT: Yes, your Honor.

22 THE COURT: Is everything that you told me in that  
23 statement true?

24 THE DEFENDANT: Yes, your Honor.

25 THE COURT: All right. The prosecutor has asked that

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1 I ask you a couple of additional questions which your lawyer  
2 heard so he knows more or less what they are going to be so I'm  
3 going to give him an opportunity to consult with you before I  
4 put those questions to you.

5 MR. KOFFMANN: Thank you, your Honor.

6 (Counsel and defendant confer)

7 MR. KOFFMANN: Thank you, your Honor.

8 THE DEFENDANT: Sorry, your Honor, I didn't understand  
9 but my attorney explained it to me and I would respond yes to  
10 all three.

11 THE COURT: Well I need to ask the questions first.  
12 Are you ready?

13 THE DEFENDANT: Yes.

14 THE COURT: You told me that you sent and received  
15 wire transfers to bank accounts in the United States. For what  
16 purpose?

17 THE DEFENDANT: The wire transfers were for  
18 investments in different companies and partnerships. That's  
19 what the purpose of those wire transfers were.

20 THE COURT: Did you send those wire transfers or  
21 receive those wire transfers to and from U.S. banks for any  
22 unlawful purpose?

23 THE DEFENDANT: They were for an unlawful purpose?

24 THE COURT: That's my question.

25 THE DEFENDANT: They were for investment purposes. In



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1 other words, the wire transfers that were requested were to  
2 invest in different investment opportunities. That's what they  
3 were requested for.

4 THE COURT: Including investments that you unlawfully  
5 failed to report for tax purposes to the United States  
6 government?

7 THE DEFENDANT: Yes.

8 THE COURT: We spoke earlier about the FBARs. You  
9 know what an FBAR is, correct?

10 THE DEFENDANT: Yes.

11 THE COURT: And you told me -- I think you told me --  
12 well maybe I should ask you the question. Did you fail to file  
13 FBARs with respect to certain foreign bank accounts as to which  
14 you were required to file FBARs?

15 THE DEFENDANT: Yes, your Honor.

16 THE COURT: And was the aggregate balance in those  
17 accounts over ten thousand dollars?

18 THE DEFENDANT: Yes, your Honor.

19 THE COURT: Do you want me to ask year by year,  
20 Ms. Choi.

21 MS. CHOI: No, your Honor. That's fine.

22 THE COURT: All right. And Mr. von der Goltz, you  
23 told me that you made false statements to representatives of  
24 the United States government, that you repeated certain  
25 falsehoods concerning the ownership of the accounts that were

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1 not reported. Can you tell me the dates on which you made  
2 those false statements, either directly or indirectly, to the  
3 government?

4 THE DEFENDANT: I don't know the exact dates but it  
5 was in I believe 2018.

6 THE COURT: Did you, through counsel, did you have  
7 your counsel send an e-mail to the government on or about  
8 May 11, 2016 with false statements?

9 THE DEFENDANT: Yes, your Honor.

10 THE COURT: And did you personally make such false  
11 statements to representatives of the Department of Justice on  
12 or about May 19, 2016?

13 THE DEFENDANT: Yes, your Honor.

14 THE COURT: Thank you, Mr. von der Goltz.

15 Anything else, Ms. Choi?

16 MS. CHOI: No, your Honor.

17 THE COURT: Mr. von der Goltz, on the basis of your  
18 responses to my questions and my observations of your demeanor,  
19 I find that you are competent to enter a guilty plea. I am  
20 satisfied that you understand your rights, including your right  
21 to go to trial; that you are aware of the consequences of your  
22 plea, including the sentence that could be imposed; and that  
23 you are voluntarily pleading guilty. I also conclude that you  
24 have admitted that you are guilty as charged in Counts One  
25 through Nine of the indictment and for these reasons I will

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1 recommend that the district judge accept your plea.

2 Ms. Choi is this Judge Berman's case?

3 MS. CHOI: It is, your Honor. And, I'm sorry, I  
4 should have reminded the court with regard to venue. The  
5 government's happy to give a factual stipulation as to venue  
6 but if the defense simply waives venue we could leave it at  
7 that.

8 THE COURT: Waive venue, counsel?

9 MR. KOFFMANN: Yes, your Honor. We do waive venue.

10 THE COURT: All right. So I will ask the government  
11 to order a copy of the transcript and submit it to Judge Berman  
12 together with any additional paperwork that he will need to act  
13 on the recommendation.

14 Has he set a sentencing date?

15 MS. CHOI: He has not, your Honor, but the -- but  
16 Judge Berman's chambers had indicated that they would like the  
17 defendant to appear before him on February 24 at 9:30 a.m.

18 THE COURT: To set a sentencing date?

19 MS. CHOI: Yes, your Honor. Judge Berman requires  
20 defendants who plead guilty in magistrate court to appear  
21 before him so if he has any questions he could ask them of the  
22 defendant directly.

23 THE COURT: That's fine. We think of this as a part  
24 of the United States District Court not as, quote, magistrate  
25 court for your future reference.

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1 MS. CHOI: Understood, your Honor.

2 THE COURT: So you will appear before Judge Berman on  
3 February 24, Mr. von der Goltz, and he may have additional  
4 questions for you at that time. I will direct that a  
5 presentence report be prepared.

6 Ms. Choi, can you deliver the case summary to the  
7 probation department within 14 days?

8 MS. CHOI: Yes, your Honor.

9 THE COURT: And Mr. Koffmann can you and your client  
10 be available for interview by the probation department within  
11 14 days?

12 MR. KOFFMANN: Yes, your Honor.

13 THE COURT: All right. The defendant is on bail,  
14 correct?

15 MS. CHOI: Yes, your Honor.

16 THE COURT: Any objections to continuing the present  
17 bail term?

18 MS. CHOI: None from the government.

19 THE COURT: Mr. von der Goltz, all of the conditions  
20 on which you have been released up until now continue to apply.  
21 As I am sure you understand, a violation of those conditions  
22 would have serious consequences including revocation of bail  
23 and prosecution for bail jumping.

24 Do you understand that?

25 THE DEFENDANT: Yes, your Honor.

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1 THE COURT: Anything further from the government?

2 MS. CHOI: No. Thank you, your Honor.

3 THE COURT: From defense?

4 MR. KOFFMANN: No, your Honor.

5 THE DEFENDANT: Thank you, ladies and gentlemen.

6 (Adjourned)

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